



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/761,569 | 01/21/2004 | John H. King | BUI29/0BU34 | 3439 |

24350 7590 01/12/2006

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE, KY 40202-3352

EXAMINER

DOSTER GREENE, DINNATIA JO

ART UNIT PAPER NUMBER

3743

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/761,569 | KING, JOHN H. | |
| | Examiner | Art Unit | |
| | Dinnatia Doster-Greene | 3743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Response to Amendment

The amendment filed on October 26, 2005 has been entered. Examiner acknowledges that claim 1 has been amended and claim 14 has been added.

Response to Arguments

Applicant's arguments filed October 26, 2005 have been fully considered but they are not persuasive. Therefore, the prior rejections stand.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Green (U.S. Patent No. 5,402,535). Luppi discloses a respirator hood including a transparent lens and comprising an inflatable neck cuff (21) positioned near a lower portion of the hood and substantially circumscribing an opening through which the wearer inserts his head (Fig. 2). The inflatable neck cuff is supplied by an air source (column 4) so as to exert a sealing pressure against the neck of the wearer and to prevent the hood from rising up relative to the head of the wearer.

Art Unit: 3743

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lobelle (U.S. Patent No. 3,438,060). Lobelle discloses a respirator hood including a transparent lens and comprising an inflatable neck cuff (Figs. 1-2) positioned near a lower portion of the hood and substantially circumscribing an opening through which the wearer inserts his head (Figs. 1-2). The inflatable neck cuff is supplied by an air source (column 2) so as to exert a sealing pressure against the neck of the wearer and to prevent the hood from rising up relative to the head of the wearer. The inflatable neck cuff does not include an outlet into the interior of the hood.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 4, 6, 8, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luppi (U.S. Patent No. 6,792,623) in view of James (U.S. Patent No. 5,283,914). Luppi discloses a respirator hood comprising an inflatable neck cuff (44) positioned near a lower portion of the hood and substantially circumscribing an opening through which the wearer inserts his head (Fig. 6). The inflatable neck cuff is supplied by an air source (41) so as to exert a sealing pressure against the neck of the wearer and to prevent the hood from rising up relative to the head of the wearer. Luppi also discloses an overhead channel (8) which defines an air delivery path from an air source. Luppi further discloses an integral exhalation valve (30).

However, Luppi fails to disclose a lens and multiple overhead channels. Nevertheless, James, which also relates to a respirator hood, discloses that it is known to include multiple overhead channels which are directed towards the lens of the respirator hood. Thus, it would have been obvious skilled in the art to modify the respirator hood of Luppi, to include a lens and multiple overhead air channels (James, Fig. 2) as taught by James for the purpose of providing means for introducing a filtered air supply between the wearer's face and the lens of a visor (James, col. 1).

Claims 3, 5, 7, 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luppi and James as applied above, and further in view of Grizard (French Patent No. 2,614,538). The combination of Luppi and James discloses the claimed invention as discussed above with the exception of the air source distributing air to the inflatable neck cuff and one or more overhead channels and a pull-away exhalation valve. However, Grizard, which also relates to a respirator hood, discloses

Art Unit: 3743

that it is known to utilize an input air source to simultaneously provide air to inflate a neck support and to provide air as an input source to the user (Grizard, Figs. 5-6). Grizard further discloses a pull-away exhalation valve (17). Thus, it would have been obvious to one skilled in the art based upon the teaching of Grizard to modify the hood respirator of Luppi to utilize a single air source to inflate the neck support and to provide air to the overhead channels for the purpose of providing a more compact and efficient device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

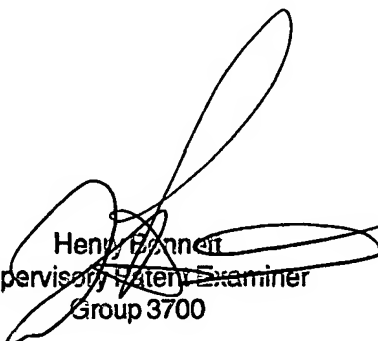
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

Art Unit: 3743

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg



Henry Bennett
Supervisor, Patent Examiner
Group 3700